

PANDEMIC SAFETY FOR STATE WORKSITES



BARBARA GIBSON
State Human Resources Director

SCARLETTE GARDNER, ESQ.
Division Director, Safety Health & Workers' Compensation



PANDEMIC SAFETY FOR STATE WORKSITES

*(For Non-Mandatory Employees at Non-healthcare and
Non-corrections/custody worksites)*

ISSUED DECEMBER 15, 2020

REVISED June 15, 2021

Subject to change upon issuance of new or updated federal or state guidance

DISCLAIMER: This guidance does not constitute legal advice. State agencies should consult with their own agency legal counsel and the Attorney General's office to obtain specific legal advice regarding handling of worksite specific situations pertaining to all COVID-19 related matters. (Note: This document replaces the OSHR Pandemic Safety for State Worksites Guidance revised April 6, 2021. This report and related resources are available online at <https://oshr.nc.gov/safe-return>.)

Introduction

The health and safety of state employees is the highest priority and shared responsibility of employees and State agencies. The Occupational Safety and Health Act's (OSHA) general duty clause requires employers to provide worksites free from recognized hazards likely to cause death or serious bodily harm. State agencies should demonstrate their commitment to working collectively with employees toward improving the physical environment of shared worksites. These improvements are for the benefit of all and to make employees feel confident of their health and safety at work given COVID-19 related workplace safety measures implemented in response to the COVID-19 pandemic. This document provides general guidance to State agencies concerning issues pertaining to mandatory and non-mandatory state employees reporting to work at non-healthcare and non-corrections/custody worksites pursuant to the State's current and evolving guidance regarding worksite safety and COVID-19 public health issues.

Agencies may wish to permanently implement parts of this guidance as some issues may continue beyond the duration of ongoing public health concerns for the COVID-19 pandemic. Changing circumstances may require agencies to be flexible to ensure public health and safety.

Vaccination is strongly encouraged for all state employees. “Fully vaccinated” means it has been two weeks since someone has received the second dose of a two-dose vaccine or two weeks after receiving a one-dose vaccine. For more detailed information on vaccination, please refer to [DHHS’s Interim Guidance for Individuals Who Have Been Vaccinated Against COVID-19.](#)

To obtain information on where vaccination is available, visit [My Spot, My Shot.](#)

As all employees/visitors may not be fully vaccinated, agencies should continue encouraging vaccination and ongoing observance of the 3 Ws (Wear. Wait. Wash.) that reminds persons to stay six feet apart, wear a cloth face covering if they are not fully vaccinated and wash their hands frequently. DHHS has a variety of [COVID-19 related signage available for download.](#)

As COVID-19 related public health restrictions are lifted and modified, employers are encouraged to continue reviewing all DHHS COVID-19 recommendations. [Current and regularly updated general guidance for businesses is provided by DHHS.](#)

Every effort has been made to ensure updated information and resource links are included in this document as of the date of issuance; however, please be advised that this guidance is subject to change pursuant to newly issued or revised federal or state guidance.

OSHR will update this document periodically; however, agencies are advised to recheck all listed sources to obtain the most recently updated information.

Table of Contents

Worksite Physical Alteration Considerations	4-5
State Owned and Leased Worksites	
Employee Time and Leave Management	
Daily Operations Considerations	
Part A. Use of Face Coverings	6
Part B. Social Distancing	7
• Breakrooms/Kitchens	
• Vending Machines	
• Fitness Facilities	
• Lactation Rooms	
• Conference Rooms/Classrooms	
• In-person Meetings	
Part C. Travel	8
Part D. Shared Vehicles	8
Part E. Building Cleaning	8-9
Part F. Ongoing Hygiene/Prevention Practices	10
Part G. State Agency Purchases of Personal Protective Equipment (PPE)/Cleaning Supplies	10-11
Part H. Daily COVID-19 Symptom Screening for Employees Reporting Onsite	11-12
Part I. Handling of COVID-19 Symptomatic Employee at Worksite	12
Part J. Worksite Cleaning Response for COVID-19 Symptomatic/Positive Employee	12-13
Part K. Handling of COVID-19 Positive Employee Notification	13
Part L. Multi-agency Worksite COVID-19 Coordination	13
Part M. Considerations Related to COVID-19, Return to Worksite, ADA, and other EEO Laws	14-20
• Americans with Disabilities Act (ADA)	
• Other EEO Laws (non-discrimination, harassment, and retaliation)	
• ADA and COVID-19 FAQs	
• Employee Assistance Program	
Part N. Workers' Compensation	20
Part O. Applicable OSHA Standards and Reporting	20
Communications Planning and Execution	21
Part A. FAQs	21
Part B. Governor's Executive Orders	21
Part C. Applicable OSHR Policies	22
COVID-19 Research References	22-23

Worksite Physical Alteration Considerations – State Owned and Leased Worksites

After performing a health and safety risk assessment and **BEFORE** making any physical facility changes or enhancements to promote COVID-19 safety (i.e. installation of physical barriers, space reconfiguration, etc.), state agencies should:

For State owned worksites: Obtain approval from State Construction or other appropriate building maintenance designee for approval of any physical changes to facilities as such alterations could potentially cause ADA, egress, and life safety issues.

For leased worksites: Consult with the State Property Office, Leasing and Space Planning, and the property management company regarding such matters.

Each agency is responsible for ensuring adherence to applicable building and safety codes with regard to all proposed physical worksite alterations.

Agencies should consult with DOA Facilities Maintenance on their availability to assist with moving employees to alternate office space or moving furniture.

Employee Time and Leave Management

State agencies should consult the most recently updated guidance from OSHR and OSC regarding utilization of Integrated HR Payroll System (also referred to as BEACON) new and existing specific codes and recording requirements related to employee time, leave, workers' compensation leave of absence, etc. for COVID-19 related situations.

Daily Operations Considerations

PART A.

Use of Face Coverings

- **Based on guidance from the CDC and NC DHHS, state employees who are not fully vaccinated are recommended to wear face coverings at work while indoors and within six feet of others.**
 - All state employees are welcome to wear face coverings regardless of vaccination status, and agencies should not restrict state employees or customers from wearing face coverings.
- **Under [Executive Order 215](#), and consistent with [CDC guidance](#), if state employees are in one of the following places, they must wear face coverings — whether they are vaccinated or unvaccinated:**
 - **Correctional and detention facilities**
 - **Facilities serving the homeless**
 - **Transportation facilities, such as:**
 - Airports
 - Bus stations and stops
 - Train stations and stops
 - **Certain health care settings:**
 - Hospitals
 - Outpatient healthcare settings
 - Long Term Care facilities
 - Skilled nursing facilities
 - Intermediate care facilities for individuals with intellectual disabilities
 - **Childcare facilities**
 - **Children's day or overnight camps**
 - **Schools**
- **Agency heads may require that employees or visitors/customers wear face coverings in other situations or settings.** Supervisors can evaluate working conditions and propose to agency heads additional situations where face covering requirements should continue.
- **Starting on Thursday, May 20, 2021 face coverings are not required for employees of Cabinet agencies, unless they are in one of the types of places listed above (like correctional facilities and hospitals) where face coverings are always required, or in a situation or setting where required by the agency head.**

Because it can be hard to know who is vaccinated and who is not, some employers may decide to ask all employees to wear a face covering until more people in North Carolina are vaccinated.

Employees required to work in increased risk settings with possible close contact with COVID-19 positive individuals or infected materials must be supplied the appropriate PPE and training for proper use by the agency. Such PPE is provided to onsite state employees at no charge.

Employees may utilize cloth face coverings and other PPE of their choice that do not interfere with completion of work duties so long as it is in good taste and any designs, graphics, or logos present a professional image acceptable to the general public.

Agencies may provide disposable face coverings for customers/visitors to wear while onsite.

PART B.

Social Distancing

DHHS Guidance states that fully vaccinated persons may gather with others who are vaccinated or unvaccinated and be in most indoor and outdoor public spaces without wearing a face covering or staying 6 feet apart.

DHHS Guidance also states that persons that are not fully vaccinated:

- Should avoid indoor settings where people are not wearing face coverings,
- Wear a face covering, maintain social distancing and be outside, if possible, when gathering with others, and
- Wear a face covering and maintain social distance in all indoor public settings and in outdoor public settings when it is difficult to maintain 6 feet of distance.

Breakrooms/Kitchens

Individual agencies will determine whether kitchen/breakrooms will be available for employee use. If kitchen/breakroom is available, stagger occupancy and wash your hands.

Vending Machines

Individual agencies will determine whether vending machines will be supplied and operational. If vending machines are supplied and operational, wash your hands after use.

Fitness Facilities

Individual agencies will determine when fitness facilities will be available for employee use.

Lactation Rooms

Individual agencies will determine when lactation rooms will be available for employee use.

Conference Rooms/Classrooms

Agencies may opt to utilize in-person meetings or videoconferencing technology solutions or a combination of both. Employees who are not fully vaccinated should maintain social distance and wear a face covering. Because it can be hard to know who is vaccinated and who is not, some employers may decide to ask all employees to wear a face covering until more people in North Carolina are vaccinated.

In-person Meetings

Agencies may opt to utilize in-person meetings or videoconferencing technology solutions or a combination of both.

Employees who are not fully vaccinated should maintain social distance and wear a face covering. Because it can be hard to know who is vaccinated and who is not, some employers may decide to ask all employees to wear a face covering until more people in North Carolina are vaccinated.

Part C.

Travel

Individual agencies are responsible for granting travel requests given current State government travel rules.

CDC states that fully vaccinated persons may travel in the United States without needing to get tested before or after travel or self-quarantine after travel. International travelers need to pay close attention to the situation at their international destinations before traveling due to the spread of new variants and because the burden of COVID-19 varies globally. Discuss any questions with your supervisor or Agency Human Resources Office.

CDC states that persons should delay travel until fully vaccinated. If you are not fully vaccinated and do travel, get tested 1-3 days before and 3-5 days after travel AND stay home and self-quarantine for a full 7 days after travel.

Part D.

Shared Vehicles

For those who need or want to travel with more than one occupant in a vehicle, the following recommendations should be observed:

- Employees should perform a health self-screening for COVID-19 symptoms as identified by their agency when using a vehicle to go to work, when leaving work to go to another destination, and again when using the vehicle to return.
- All employees are welcome to wear a face covering while traveling in a shared vehicle.
- All drivers and occupants (if not fully vaccinated) must wear a cloth or other approved face covering, apply hand sanitizer and avoid snacking and eating or other activities that require removal of the face covering while in the vehicle.
- Weather conditions permitting, outside air ventilation should be increased to allow for the highest amount of air flow into the passenger compartment without causing discomfort to the occupants.

Discuss any questions with your supervisor or Agency Human Resources Office.

PART E.

Building Cleaning

Ongoing awareness and partnership between employees and agencies to prevent the physical spread of COVID-19 at worksites will help maintain a healthy workforce.

Provide job safety analysis to protect employees conducting cleaning operations.

Provide appropriate PPE and training for all cleaning duties.

Secure PPE/supplies storage and designate specific staff to manage stock and distribute items.

Provide individual workspaces with necessary cleaning/disinfection and PPE supplies to reduce supply room visits.

Preferably, COVID-19 disinfection services should occur after hours to ensure all areas can be accessed.

Building and workspace closures until disinfection work is completed is at the discretion of the agency.

Consistent with CDC guidelines and NCDHHS recommendations, janitorial staff at all state-owned facilities have been instructed to use EPA approved products to clean and disinfect worksites, with an emphasis on common areas and high-touch surfaces. High-touch surfaces will be cleaned once a day. Increased sanitation also will occur in restrooms. Agencies in leased spaces have been advised to work with property managers.

Hand sanitizer will be available at entry and high-traffic locations for employee and visitor use. Employees are encouraged to use disinfectant wipes or cleaner after contact with high-touch surfaces and shared-use items to help maintain a safe work environment, and to wash their hands.

Agencies that hire contractors for cleaning services may be eligible for reimbursement through the FEMA Public Assistance Program administered by the North Carolina Emergency Management (NCEM) Recovery Section. Guidance on expenses eligible for reimbursement on any given date and how to apply for FEMA Public Assistance can be [found here](#).

Below is a Summary of the FEMA Public Assistance Program Process:

1. Register as an applicant in the FEMA Grants Portal.
2. Participate in an Applicant Briefing. Applicant briefings are available on demand at the webpage listed above. Applicant Briefings can be requested through the Public Assistance Hotline at 919-825-2548 or email pahotline@ncem.org. The Applicant Briefing will provide greater details about the Public Assistance grant program.
3. Submit a Request for Public Assistance. The FEMA Public Assistance Emergency Protective Measures grant was activated as a result of the President's national emergency declaration for the coronavirus (COVID-19) pandemic on March 13, 2020. The effective date for expense eligibility is January 20, 2020. Currently, there is no deadline to submit a Request for Public Assistance. The deadline will be announced at a later date. Expenses eligible for reimbursement may vary based on FEMA Guidance in effect on any given date.

IMPORTANT UPDATE: FEMA issued a revised policy, *Coronavirus (COVID-19) Pandemic: Safe Opening and Operation Work Eligible for Public Assistance*, to clarify items related to safe opening and operations eligible for reimbursement conducted from January 21, 2021 through September 30, 2021. A copy of this policy is available by [clicking here](#).

NCEM Public Assistance will work with eligible State agencies.

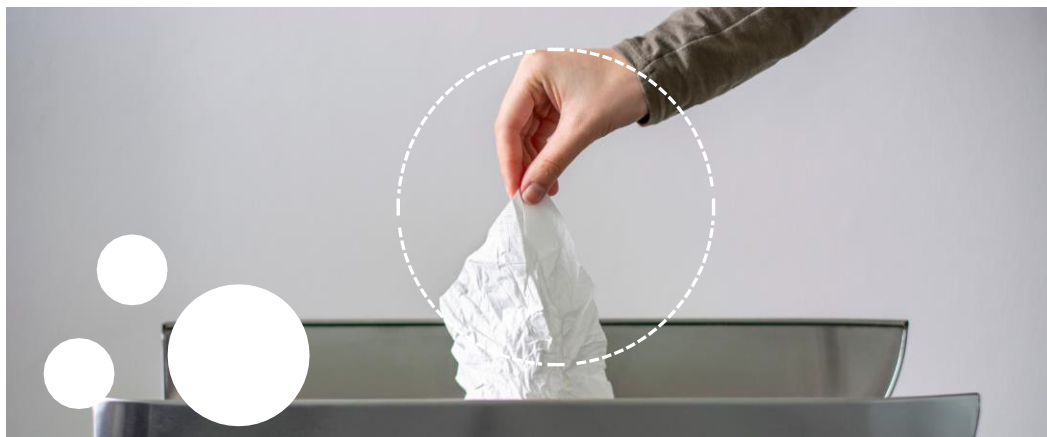
For agencies in leased space, the property owner is responsible for cleaning and disinfection. Agencies should communicate with property management to obtain details following a confirmed or suspected case of COVID-19 at the worksite.

Contact the facilities maintenance personnel or contractor for your facility to ensure ventilation systems operate properly and increase circulation of outdoor air as much as possible by opening windows and doors, using fans, or other methods. Consult with the property manager and other appropriate representatives before opening windows and doors to ensure a mechanical or health risk is not created.

[\(DHHS Interim Guidance for Public Facing Businesses issued May 14, 2021\)](#)

PART F.

Ongoing Hygiene/Prevention Practices



Employees are encouraged to always use common-sense health precautions (when working, in the public, or at home) including:

- Getting a COVID-19 vaccine to protect yourself and others against COVID-19.
- If you are not fully vaccinated, maintain social distance and wear a face covering.
- [Wash your hands with warm soapy water](#) for at least 20 seconds each time.
- Avoid touching your eyes, nose and mouth with unwashed hands.
- Avoid close contact with people who are ill or were diagnosed with COVID-19 within the preceding 10 days or with persons who were instructed to isolate.
- Cover your mouth and nose when you cough or sneeze.
- Do not reuse a tissue after coughing, sneezing, or blowing your nose.
- Use disinfectant wipes or other CDC-recommended or EPA registered cleaning products to regularly clean your workspace, with emphasis on high-touch areas like door handles, phones, keyboard, mouse, office supplies, and hand gel dispensers. Wash your hands after cleaning your workspace.
- Increase ventilation of occupied rooms or spaces if possible directing airflow to the exterior.

Agencies may continue utilizing ongoing COVID-19 safety measures at their worksite including:

- Recommending and facilitating vaccination of employees;
- Restrictions on number of visitors, or visits by appointment only;
- Barriers such as plexiglass screens in public-facing areas to separate employees and visitors;
- Increased access to hand sanitizer, disinfectant spray or wipes, or other cleaning products;
- Cleaning of high-touch surfaces at least once a day;
- Informational signs to explain importance of COVID-19 safety practices;
- Directional signs on floors to define traffic flow or ensure six feet of space between people;
- Temporarily closing shared spaces such as kitchens, breakrooms, fitness rooms, etc.;
- Assigning employees to individual workspaces in a new location; or
- Altering physical layout of a worksite.

PART G.

State Agency Purchases of Personal Protective Equipment (PPE)/Cleaning Supplies

Ordering Personal Protective Equipment (PPE)

DOA State Purchase & Contract (P&C) has established a portal for State agencies to continually order the following PPE supplies as needed. Delivery of some items may be delayed subject to availability:

- Alcohol wipes

- Bleach wipes
- Cloth face covers
- Liquid disinfectant
- Disinfectant spray
- Face shields
- Gloves
- Gowns
- Hand sanitizer
- Disposable masks – non-surgical, surgical
- Shoe covers
- Theraworx advanced hygiene and barrier system, liquid foam
- Thermometer – disposable, non-contact

A website has been established that includes guidance, frequently asked questions (FAQs) and instructions to access and navigate the [Service Now Portal](#). All orders for PPE must be placed by accessing the Service Now Portal website.

All registered Purchasing Directors and delegates can place orders for their respective agencies. If a Purchasing Director or delegate is not registered to access the portal, they can send an email to ppesupplyquestions@doa.nc.gov to request access.

PPE items can be delivered locally in Raleigh by agency request or picked up by the agency.

PPE items can be shipped to various agency locations which will result in billing of shipping charges to the agency by the Mail Service Center.

All questions regarding PPE, delivery, or portal access should be directed to: ppesupplyquestions@doa.nc.gov or the PPE Consolidated Supply Management Warehouse at: 919.733.6540, EXT 4640.

Multiple designs of floor decals demonstrating and encouraging six feet social distancing and arrow decals to direct one-way foot traffic with non-damaging adhesive may be purchased from Correction Enterprises: www.correctionenterprises.com or 1-800-241-0124.

PART H.

Daily COVID-19 Self Screening for Employees Reporting Onsite

Employees are strongly encouraged to assess each day before reporting to their worksite whether they are experiencing COVID-19 symptoms including fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea. If an employee is experiencing such symptoms, they should immediately call and inform their supervisor and do not report to their worksite.

State agencies may adopt procedures regarding on-site employee participation in COVID-19 symptom screening. When arriving at worksites, employees may be instructed to use designated entrances to undergo a health screening. The health screening process may include a symptom screening checklist, on-site temperature check, or other measures.

Information provided by employees during any COVID-19 screening process related to underlying health conditions, medical certification, doctor's notes, etc., is confidential and the employer should designate a person on site to ensure this information is protected.

All employees (trained medical staff or others) involved in any screening process must have proper personal protective equipment (PPE) and adhere to CDC Guidance for safecommunicable disease screening procedures.

Such procedures may include disciplinary measures for failure to comply or for providing erroneous and misleading information.

NC State Employee Screening Tool

The NC State Employee COVID-19 Symptom Screening Tool is available for use by all State agencies for employees working onsite to perform daily COVID-19 self-health Screening. It is accessible by mobile phone, tablet, or laptop computer.

Please contact OSHR Safety Health & Workers' Compensation Division Director Scarlett Gardner regarding agency staff access to NC State Employee Symptom screening reporting capabilities.

PART I.

Handling of COVID-19 Symptomatic Employee at Worksite – Check Most Recently Revised CDC Guidelines for Updated Information

Maintain a plan to immediately and temporarily isolate at the worksite any employee(s) who is experiencing COVID-19 symptoms or illness while awaiting safe transport to their home or a healthcare facility. The employee should be sent home with the most recently updated DHHS guidance regarding self-isolation, directions to seek assessment and guidance from their medical provider, and instructions on when to return to onsite work. The DHHS Non-Healthcare Worker Symptom Screening Checklist is available [here](#).

PART J.

Worksite Cleaning Response for COVID-19 Symptomatic/Positive Employee -Check most recently revised CDC Guidelines for updated information

Close off affected worksite areas used by the employee during the period when they might have been infectious. People are generally considered to be infectious from 48 hours before until 10 days after illness onset (or before and after collection of the first positive specimen for those with no symptoms). Agencies do not necessarily need to close operations if they can close off affected areas.

Call housekeeping or vendor to request cleaning/disinfection services for work areas used by the symptomatic/positive employee.

Untrained agency employees should not participate in cleaning or disinfecting of affected areas as this process follows specific and rigorous protocols.

For questions: State-owned facilities in Wake County should call the Wake County Epidemiology Task Force, 919-856-7032. State agencies located in other counties should contact local departments, contact information is available [here](#).

Callers should explain that they are calling per OSHR guidance to contact their local health department so that the agency can confirm that they are taking appropriate control measures, sanitation, etc., as recommended by the local health department.

Employees should be timely notified when the cleaning process has been completed to provide reassurance that their worksite is safe.

PART K.

Handling of COVID-19 Positive Employee Notification – Check Most Recently Revised CDC Guidelines for Updated Information

The local health department in the positive employee's county of residence will handle contact tracing.

Agencies should send out a general email notification to employees emphasizing the need to continue COVID-19 prevention measures. A sample notification that may be adapted for agency use is available at oshr.nc.gov/safe-return.

Follow most recently updated CDC guidance including Non-Healthcare Employee Symptom Screening Checklist for guidelines regarding when the employee should return to onsite work.

PART L.

Multi-agency Worksite COVID-19 Coordination

OSHR recommends that agency human resources directors, safety professionals and chief deputies in various agencies with shared worksites collaborate and adopt a mutually agreed upon COVID-19 response plan for that worksite to ensure proper handling of COVID-19 positive employees in buildings with multiple state agency occupants. This agreement can be in an MOU (Memorandum of Understanding) format between the agencies. Specifically, agencies should focus on:

1. Demonstrating and documenting how notification will be provided to all building occupants; and
2. Demonstrating and documenting how notification will be made and executed regarding worksite cleaning when notice is received of a COVID-19 positive employee assigned to that worksite.

PART M.

Considerations Related to COVID-19, Return to Worksite, ADA, and other EEO Laws

Employees should be notified regarding whom to contact with questions or concerns about workplace safety and health.

Americans with Disabilities Act (ADA)

- The Americans with Disabilities Act (ADA), which protects applicants and employees from disability discrimination, is relevant to COVID-19 pandemic workplace preparation in at least three major ways.
 1. The ADA regulates employers' disability-related inquiries and medical examinations for all applicants and employees, including those who do not have ADA disabilities.
 2. The ADA prohibits covered employers from excluding individuals with disabilities from the workplace for health or safety reasons unless they pose a "direct threat" (i.e., a significant risk of substantial harm even with reasonable accommodation).
 3. The ADA requires reasonable accommodations for individuals with disabilities (absent undue hardship) during the COVID-19 pandemic.
- Employees at increased risk of severe illness from COVID-19 may present significant concerns to their agency about being asked to return to the workplace. [CDC Guidance provides a list of such conditions](#). These requests present a myriad of considerations for the employer.
- The Americans with Disabilities Act (ADA) may cover employees considered at

increased risk of severe illness if they contract COVID-19. If an employee is at increased risk because of a qualifying disability, such as chronic lung disease, diabetes, or serious heart conditions, the employee (or a third party, such as the employee's doctor), must let the agency know that they need a change for a reason related to a medical condition (here, the underlying medical condition). After receiving the request (in writing or in conversation), the employer may ask questions or seek medical documentation to help decide if the individual has a disability and if there is a reasonable accommodation, barring undue hardship.

- COVID-19 alone may not be considered a disability under the ADA, due to the illness being transitory and having limited impact on major life activities in ordinary circumstances. However, individuals that can demonstrate some connection between the impairment and a specific need for accommodation may be eligible for coverage. For example, the individual might have an underlying impairment and limitation that, if infected with coronavirus, would lead to serious complications.
- If an increased risk employee requests an accommodation because their medical disability under ADA places them at an increased risk for complications from COVID-19 exposure, then the agency must determine if the accommodation is reasonable. Agencies may continue to verify the existence of the disability and discuss the reason for and type of COVID-19 related accommodation requested by the employee. Whether to require documentation of the disability is in the agency's discretion.
- Human Resources should address issues related to the Family and Medical Leave Act (FMLA) if the employee requests leave related to COVID-19 or an underlying health condition.
- Some agencies know that an employee has an increased risk condition and may be concerned that the employees' health will be jeopardized upon returning to the worksite. First, the employee must request an accommodation before an agency may take action. The ADA does not allow the agency to exclude the employee, solely because the employee has a disability identified by the CDC as being at an increased risk for severe illness. Under the ADA, this action cannot be considered unless the employee's disability poses a "direct threat" to their health that cannot be eliminated or accommodated.

Other EEO Laws (non-discrimination, harassment, and retaliation)

- Due to the availability of the COVID-19 vaccine, many agencies will begin to reopen their worksites to employees. Managers should remind all employees that it is against federal EEO law and state policy to harass or otherwise discriminate against coworkers. Fear of the COVID-19 pandemic should not be misdirected against individuals because of a protected characteristic, including their national origin, race, or other prohibited bases.

- Managers should be alert to demeaning, derogatory, or hostile remarks directed to employees who are or are perceived to be of Chinese or other Asian national origin, including about the coronavirus or its origins. Managers and supervisors should watch for, stop, and report to HR any harassment or other forms of discrimination.
- If an employee who is teleworking due to the pandemic is sending harassing emails to another worker, the agency should take the same actions it would take if the employee were in the workplace. Employees may not harass other employees through emails, calls, or platforms for video or chat communication and collaboration, or other methods.
- All EEO related laws remain in full effect with EEOC instructions to account for specific public health needs related to the COVID-19 pandemic.
- EEOC has issued guidance allowing employers to:
 1. Exclude employees from the worksite who are infected with, symptomatic from, or have been exposed to COVID-19;
 2. Require employee use of personal protective equipment (PPE) within certain limits based upon job tasks, types of job exposure, and risk assessment to reduce risk of COVID-19 exposure; and
 3. Administer COVID-19 specific health screening at worksites to identify employees with COVID-19 symptoms so that they can be sent home immediately to reduce the risk to others and return to worksites in accordance with CDC Guidance.
- Agencies must ensure that decisions regarding the employees' return to worksite schedules during reopening are based on legitimate business reasons.
- Track the following issues that arise related to COVID-19 to analyze patterns and provide objective information for addressing employee issues:
 1. Requests for accommodations and decisions regarding grant or denial;
 2. Personal conduct;
 3. Leave management; and
 4. Performance.
- When transitioning employees back to onsite work, agencies may consider non-discriminatory, objective criteria when determining which employees should return to the worksite and when including:
 1. Is telework available for the employee?
 2. Is telework available for this type of position?
 3. Can this employee's job duties be fully performed when teleworking or is access to worksite equipment or other resources required to do so?

- When transitioning employees back to onsite work, employers cannot select employees for disparate treatment based on a protected class, including national origin. For instance, some studies suggest higher rates of COVID-19 positive test results based upon demographic groups, including race, and gender. Employers will need to closely monitor any concerns that employees are being subjected to disparate treatment or harassed in the workplace because of membership in a protected class.
- Employees should be informed that all EEOC, ADA, or other employee relations concerns should be communicated directly to their EEO Officer, or the worksite's designated COVID-19 Coordinator to obtain EEO Officer contact information.

ADA and COVID-19 FAQs

Summary of Important Issues Addressed by the EEOC

Disclaimer: The information below has been sourced directly from the following three sources and may contain specific quotes. Please check these source documents for updates to verify relevance and timeliness of this information.

Sources:

[EEOC: Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)

[EEOC: What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)

[Ask Jan: The ADA and Managing Reasonable Accommodation Requests from Employees with Disabilities in Response to Covid-19](#)

1. **During the COVID-19 pandemic, must an employer continue to provide reasonable accommodations for employees with known disabilities that are unrelated to the pandemic, barring undue hardship?**

Yes. An employer's ADA responsibilities to individuals with disabilities continue during any pandemic. Only when an employer can demonstrate that a person with a disability poses a direct threat, even after reasonable accommodation, can it lawfully exclude him or her from employment or employment-related activities.

The rapid spread of COVID-19 has disrupted normal work routines and may have resulted in unexpected or increased requests for reasonable accommodation. Although employers and employees should address these requests as soon as possible, the extraordinary circumstances of the COVID-19 pandemic may result in delay in discussing requests and in providing accommodation where warranted. Employers and employees are encouraged to use interim solutions to enable employees to keep working as much as possible.

2. **May an agency send employees home if they display influenza-like symptoms during a pandemic?**

Yes. Requiring such employees to go home is not a disability-related action. Applying this principle to current CDC guidance on COVID-19, this means an employer can send home an employee with COVID-19 or symptoms associated with it.

3. During the COVID-19 pandemic, how much information may an agency request from employees who report feeling ill at work or who call in sick?
Agencies may ask employees who report feeling ill at work, or who call in sick, questions about their symptoms to determine if they have or may have COVID-19. Currently these symptoms include, for example, fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea.

4. During the COVID-19 pandemic, may an agency take its employees' temperatures to determine whether they have a fever?
Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions as of March 2020, employers may measure employees' body temperature. As with all medical information, the fact that an employee had a fever or other symptoms would be subject to HIPAA and ADA confidentiality requirements.

5. If an agency is hiring, may it screen applicants for symptoms of COVID-19?
Yes. An agency may screen job applicants for symptoms of COVID-19 after making a conditional job offer, if it does so for all entering employees in the same type of job.

6. May an agency take an applicant's temperature as part of a post-offer, pre-employment medical exam?
Yes. Any medical exams are permitted after an employer has made a conditional offer of employment. However, employers should be aware that some people with COVID-19 do not have a fever and that all fevers are not indicative of COVID-19 infection.

7. May an agency delay the start date of an applicant who has COVID-19 or symptoms associated with it?
Yes. According to current CDC guidance, an individual who has COVID-19 or symptoms associated with it should not be in the workplace. The ADA does not interfere with employers following recommendations of the CDC or public health authorities, and employers should feel free to do so.

8. May an agency withdraw a job offer when it needs the applicant to start immediately but the individual has COVID-19 or symptoms of it?
Based on current CDC guidance, this individual cannot safely enter the workplace, and therefore the employer may withdraw the job offer.

9. As a best practice, and in advance of having some or all employees return to the workplace, are there ways for an employer to invite employees to request flexibility in work arrangements?
Yes. The ADA and the Rehabilitation Act permit employers to make information available in advance to all employees about who to contact – if they wish – to request accommodation for a disability that they may need upon return to the workplace, even if no date has been announced for their return. If requests are received in advance, the employer may begin the interactive process. An employer may choose to include

in such a notice all the CDC-listed medical conditions that may place people at increased risk of serious illness if they contract COVID-19, provide instructions about who to contact, and explain that the employer is willing to consider on a case-by-case basis any requests from employees who have these or other medical conditions.

10. Is an employee entitled to an accommodation under the ADA in order to avoid exposing a family member who is at increased risk of severe illness from COVID-19 due to an underlying medical condition?

No. Although the ADA prohibits discrimination based on association with an individual with a disability, that protection is limited to disparate treatment or harassment. The ADA does not require that an employer accommodate an employee without a disability based on the disability-related needs of a family member or other person with whom he or she is associated.

11. Due to the pandemic, may an employer exclude an employee from the workplace involuntarily due to pregnancy?

No. Sex discrimination under Title VII of the Civil Rights Act includes discrimination based on pregnancy. Even if motivated by benevolent concern, an employer is not permitted to single out workers on the basis of pregnancy for adverse employment actions, including involuntary leave, layoff, or furlough.

12. Is there a right to accommodation based on pregnancy during the pandemic?

There are federal employment discrimination laws that may trigger accommodation for employees based on pregnancy: <https://www.eeoc.gov/laws/guidance/legal-rights-pregnant-workers-under-federal-law>

13. May an employer ask an employee why he or she has been absent from work?

Yes. Asking why an individual did not report to work is not a disability-related inquiry. An employer is always entitled to know why an employee has not reported for work.

14. May an employer ask an employee who is physically coming into the workplace whether they have family members who have COVID-19 or symptoms associated with COVID-19?

No. The Genetic Information Nondiscrimination Act (GINA) prohibits employers from asking employees medical questions about family members. GINA, however, does not prohibit an employer from asking employees whether they have had contact with anyone diagnosed with COVID-19 or who may have symptoms associated with the disease. Moreover, from a public health perspective, only asking an employee about their contact with family members would unnecessarily limit the information obtained about an employee's potential exposure to COVID-19.

15. When an agency reopens the workplace and recalls employees to the worksite, does the agency automatically have to grant telework as a reasonable accommodation to every employee with a disability who requests to continue this arrangement as an ADA/Rehabilitation Act accommodation?

No, if there is no disability-related limitation that requires teleworking, then the agency does not have to provide telework as an accommodation. Or, if there is a

disability-related limitation but the agency can effectively address the need with another form of reasonable accommodation at the workplace, then the agency can choose that alternative to telework.

16. Can my agency ask for proof of my COVID-19 vaccination?

Yes, the agency may ask for proof of an employee's COVID-19 vaccination. However, the agency may not ask an employee other question(s) regarding anything related to disability status, genetic information, or religious belief.

17. Is asking or requiring an employee to show proof of receipt of a COVID-19 vaccination a disability-related inquiry?

No. There are many reasons that may explain why an employee has not been vaccinated, which may or may not be disability related. Simply requesting proof of receipt of a COVID-19 vaccination is not likely to elicit information about a disability and, therefore, is not a disability-related inquiry.

However, subsequent agency questions, such as asking why an individual did not receive a vaccination, may elicit information about a disability and would be subject to the pertinent ADA standard that they be "job-related and consistent with business necessity." If an agency requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own health care provider, the agency may want to warn the employee not to provide any medical information as part of the proof in order to avoid implicating the ADA.

Employee Assistance Program (EAP)

Living through this pandemic is a challenging experience for all state employees. Learning to adapt to changes in the work environment and workload, as well as addressing personal concerns, is important. The pandemic has brought about both temporary and permanent changes in the personal and professional lives of employees. Some of these changes have led to increased stress, anxiety, depression, and other issues. The consequences of "pandemic fatigue" and ongoing COVID-19 safety concerns present in daily life can impact employees' emotional well-being. In addition, ongoing uncertainty regarding when it will be safe to transition back to normal work and life activities in light of ongoing public health concerns can worry employees.

All of these challenges may generate emotions in employees that have not been recognized or addressed previously. To assist employees with these concerns, please remember that the NC Employee Assistance Program (NC EAP) is available. NC EAP is a state-sponsored benefit program that offers support and resources to address personal or work-related challenges and concerns. The goal of the EAP program is to help provide tools to strengthen emotional resilience and provide information on resources that can assist employees with work-life challenges. It is free for employees and members of their household and completely confidential. For state agency employees, McLaughlin Young provides this program. Simply call 888- 298-3907 to access NC EAP. An employee assistance professional will assess the situation prior to scheduling an appointment to ensure that employees are receiving the most appropriate care.

NOTE: Employees of the Judicial Branch use Deer Oaks and UNC System employees use ComPsych.

PART N.

Workers' Compensation

If an employee becomes ill and it is determined to be work-related in accordance with the Workers' Compensation Act, the Workers' Compensation Policy applies. If the employee's illness is determined not to be work-related, the Sick Leave Policy applies. During a communicable disease outbreak, there may be additional leave options available to employees.

PART O.

Applicable OSHA Standards and Reporting

All OSHA standards that apply to protecting workers from infection continue in effect.

Record work-related cases of COVID-19 illness on OSHA's Form 300 logs if the following requirements are met:

- (1) the case is a confirmed case of COVID-19;
- (2) the case is work-related (as defined by 29 CFR 1904.5); and
- (3) the case involves one or more relevant recording criteria (set forth in 29 CFR 1904.7) (e.g., medical treatment, days away from work.)

[Click here for the most recently updated COVID-19 OSHA reporting requirements.](#)

Employers must follow requirements in 29 CFR 1904 when reporting COVID-19 fatalities and hospitalizations to OSHA.

Communications Planning and Execution

Positive, repetitive messaging will help achieve the goal of changes in worksite behavior patterns to better protect everyone at worksites from COVID-19 exposure/transmission.

All messaging should clearly convey that the agency genuinely cares and is taking proactive measures to promote employee safety.

Be transparent and provide specific details to employees regarding expected safe worksite behavior expectations and practices in a manner that fully explains the reasoning and value of safety measures being implemented.

All messaging should be conveyed to employees working onsite and those still teleworking to eliminate mixed messages.

To avoid confusion, post special worksite entry instructions at entrances for employees and visitors.

Set expectations by providing detailed information before, during, and after return to onsite work the role and expectations for employees and managers regarding participation in the agency's ongoing COVID-19 safety measures.

Agencies are encouraged to develop their own original communications materials with customized messaging that will resonate with their employees. Constantly updated COVID-19 posters, signage, social media messages, and images are available on the DHHS website.

Partner with other state agencies for printing of signage and other COVID-19 related communications materials if needed.

PART A .

FAQs

Updated FAQs are available at www.oshr.nc.gov/safe-return as follows:

- [Safe Worksites FAQs for State Employees](#)
- [Safe Worksites FAQs for Managers/Supervisors](#)
- [Furlough and Emergency Lay-off FAQs](#)
- [Hand Sanitizer and Fire Safety](#)

PART B .

Governor's Executive Orders

[Click here to view Governor's Executive Orders regarding pandemic related measures.](#)

PART C .

Applicable OSHR Policies

- [Communicable Disease Emergency Policy](#)
- [Employee Assistance Program](#)
- [Reasonable Accommodation](#)
- [Reduction-In-Force Policy](#)
- [Unemployment Insurance](#)
- [Workers' Compensation](#)

COVID-19 Research References

A. CDC Guidance

For businesses

Businesses and Workplaces Plan, Prepare, and Respond

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>

Returning to Work

<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/returning-to-work.html>

Public Health Recommendations for Community-Related Exposure

<https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

Disinfecting Your Facility Everyday Steps, Steps When Someone is Sick, and Considerations for Employers

<https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

Cleaning and Disinfection for Community Facilities

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>

Guidance for Reopening Buildings After Prolonged Shutdown or Reduced Operation

<https://www.cdc.gov/coronavirus/2019-ncov/php/building-water-system.html>

General Business Frequently Asked Questions

<https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

For individuals

How to Protect Yourself & Others

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

Prevent the spread of COVID-19 if you are sick

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/sick-with-2019-nCoV-fact-sheet.pdf>

Symptoms of Coronavirus

<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

If You Are Sick or Caring for Someone

<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/index.html>

What to Do If You Are Sick

<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

People Who Need to Take Extra Precautions

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>

People Who Are at Higher Risk for Severe Illness

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

Protect Yourself When Using Transportation

<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/using-transportation.html>

Running Essential Errands

<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/essential-goods-services.html>

Social Distancing, Quarantine, and Isolation

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>

When You Can be Around Others After You Had or Likely Had COVID-19

https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html?deliveryName=USCDC_2067-DM29085

B. NC DHHS Guidance

DHHS Interim Guidance for Public Facing Businesses

<https://covid19.ncdhhs.gov/guidance#businesses>

COVID-19 North Carolina Dashboard

<https://covid19.ncdhhs.gov/dashboard>

SlowCOVIDNC app

<https://covid19.ncdhhs.gov/slowcovidnc>

DHHS Non-Healthcare Employee Symptom Screening Checklist

<https://covid19.ncdhhs.gov/guidance#current-easing-of-restrictions>

DHHS What to Do if You Feel Sick

<https://covid19.ncdhhs.gov/materials-resources#what-to-do-if-you-feel-sick>

NCDEQ Demystifying Cleaning in the Age of COVID-19 Webinar and Presentation

<https://deq.nc.gov/about/divisions/environmental-assistance-and-customer-service/nc-environmental-stewardship-1>

C. U.S. EEOC Guidance

Pandemic Preparedness in the Workplace and the Americans with Disabilities Act

<https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act>

What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

The ADA and Managing Reasonable Accommodation Requests from Employees with Disabilities in Response to COVID-19

<https://askjan.org/blogs/jan/2020/03/the-ada-and-managing-reasonable-accommodation-requests-from-employees-with-disabilities-in-response-to-covid-19.cfm>

D. UNC School of Government

Coronavirus/COVID-19 Resources

<https://www.sog.unc.edu/resources/microsites/coronavirus-covid-19/nc-county-covid-work-policies>

Coates' Canons: NC Local Government Law

<https://canons.sog.unc.edu>